

761—10.2(17A) Rule making.

10.2(1) Notice of Intended Action—approval and content. Written authorization to publish proposed rules under Notice of Intended Action in the “Iowa Administrative Bulletin” shall be made by the director. The Notice of Intended Action shall contain:

- a. Either the complete text of the proposed rules or a summary of the subjects and issues involved.
- b. The methods that persons and agencies may use to present their views on the proposed rules. In addition to providing for the submission of written comments, the Notice shall afford any interested person or agency the opportunity to make an oral presentation.
- c. Any other information required by statute or rule.
- d. Each commissioner shall be sent a copy of the Notice of Intended Action before its publication in the Iowa Administrative Bulletin.

10.2(2) Notice of Intended Action—submission of written comments and written requests to make an oral presentation.

a. With regard to proposed rules published under Notice of Intended Action, the department shall accept and consider, from any person or agency, written comments and written requests to make an oral presentation when prepared and submitted in conformance with the following:

(1) Comments and requests shall clearly state the name, address and telephone number of the person or agency authoring the comment or request and the number and title of the proposed rule as given in the Notice of Intended Action.

(2) If an oral presentation is requested, the general content of the presentation shall be indicated.

(3) Comments and requests shall be submitted to the office specified in the Notice of Intended Action. To be considered, they must be received by the office no later than the date specified in the Notice. The date shall be no less than 20 days after publication of the Notice.

b. The receipt and acceptance for consideration of written comments and written requests shall be promptly acknowledged by the department.

(1) Written comments received after the deadline may be accepted by the department although their consideration is not assured.

(2) Written requests to make an oral presentation received after the deadline shall not be accepted.

c. In addition to the formal procedures contained in this rule, the department may solicit viewpoints or advice concerning proposed rules through informal conferences or consultations as the department may deem desirable.

10.2(3) Adoption and filing of rules.

a. The director shall adopt proposed rules unless statutes specifically provide for commission adoption. The commission shall approve rules prior to their adoption by the director except as provided in subrule 10.2(5).

b. Upon adoption of proposed rules by the director or the commission, the director shall file them in accordance with Iowa Code section 17A.5.

10.2(4) Regulatory analysis. A request for issuance of a regulatory analysis shall be submitted to the department’s administrative rules coordinator at the address in subrule 10.1(3).

10.2(5) Nonsubstantive amendments to rules. In reliance upon Iowa Code subsection 17A.4(2), rule making concerning nonsubstantive amendments shall be exempted from Iowa Code subsection 17A.4(1) and subrules 10.2(1) and 10.2(2). Because nonsubstantive amendments do not alter the meaning or consequence of a rule, it is determined unnecessary and contrary to the public interest to expend resources in publishing a Notice of Intended Action and providing an opportunity for public comment during the rule-making process. Nonsubstantive amendments may be adopted and filed by the director. Nonsubstantive amendments shall include the following:

a. Correcting the name, address or telephone number of an organizational unit within the department.

b. Updating references to the Iowa Code or the Iowa Acts to reflect the most current citation.

c. Correcting spelling, typographical or grammatical errors.

d. Eliminating references to gender.

10.2(6) Concise statement. If requested in accordance with this subrule, the department shall issue a concise statement of the principal reasons for and against a rule that has been adopted, incorporating therein the reasons for overruling considerations urged against the rule.

a. The request shall:

(1) Clearly state the name, address and telephone number of the person or agency authoring the request and the number and title of the rule which is the subject of the request.

(2) Be submitted in writing to the department's administrative rules coordinator at the address in subrule 10.1(3).

¹(3) Be delivered to the coordinator or postmarked no later than the thirtieth calendar day following adoption of the subject rule.

b. A requested concise statement shall be issued either at the time of rule adoption or within 35 days after the department's administrative rules coordinator receives the request.

10.2(7) Registration.

a. Trade or occupational associations. The state office of a trade or occupational association may register its name and address with the department to receive copies of Notices of Intended Action.

(1) The request must be in writing and indicate the subject matter and the number of copies of Notice of Intended Action it wishes to receive.

(2) The trade or occupational association shall reimburse the department for the actual costs incurred in providing copies to it.

b. Small businesses. A small business or an organization of small businesses may register its name and address with the department to receive notification of Notices of Intended Action and of rules adopted and filed without a Notice of Intended Action which may have an impact on small business.

(1) The request must be in writing and may indicate the subject matter of rules it is interested in. An organization requesting registration shall indicate how many small businesses it represents.

(2) At the discretion of the department, notification shall consist of either a copy of the rules or a summary of the subjects and issues involved.

c. Submission and acknowledgment of requests. Requests for registration under this subrule shall be submitted to the department's administrative rules coordinator at the address in subrule 10.1(3). The receipt of requests for registration shall be promptly acknowledged by the department. The acknowledgment shall either:

(1) Inform the requester that it is registered, or

(2) State that the request is incomplete and indicate the additional information required.

¹ Effective date delayed until adjournment of the 1991 session of the General Assembly by the Administrative Rules Review Committee at its August 15, 1990, meeting.